



U.S. Department of Justice
Civil Division

VIA CM/ECF

August 11, 2023

David J. Smith, Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St. NW
Atlanta, GA 30303

RE: *Cooper v. Attorney General* (No. 22-13893) (oral argument scheduled for October 5, 2023)

Dear Mr. Smith:

We respectfully inform the Court of the Fifth Circuit's recent decision in *United States v. Daniels*, No. 22-60596 (Aug. 9, 2023). *Daniels* held that 18 U.S.C. § 922(g)(3) violates the Second Amendment as applied to a criminal defendant who regularly used marijuana. *Daniels* thus departs from the numerous circuit and district court decisions upholding § 922(g)(3)'s constitutionality. *See* Gov't Br. 14-18. In deviating from those precedents, *Daniels* relied on the Fifth Circuit's prior decision in *United States v. Rahimi*, 61 F.4th 443 (5th Cir. 2023), a case in which the Supreme Court recently granted the government's petition for a writ of certiorari, *see* No. 22-915, 2023 WL 4278450, at *1 (U.S. June 30, 2023). For the reasons given in the government's brief in this case, *Daniels* is incorrectly decided and § 922(g)(3) accords with the Second Amendment.

Sincerely,

/s/ Steven H. Hazel
Steven H. Hazel
Attorney

cc: all counsel (via CM/ECF)

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2023, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Steven H. Hazel
STEVEN H. HAZEL